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| 09/776,395 | 02/02/2001 | John Richard Skerrett | AFH-13782.1 | 2248 |

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Scott B. Garrison
Kimberly-Clark Worldwide, Inc.
401 North Lake Street
Neenah, WI 54957-0349

EXAMINER

BUTLER, MICHAEL E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3653

DATE MAILED: 06/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/776,395

Applicant(s)

Skerrett et al.

Examiner

Michael E. Butler

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Apr 23, 2002

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-8 and 17-24 is/are pending in the application.

4a) Of the above, claim(s) 17-24 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-8 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5

6) ☐ Other: _____

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DETAILED ACTION

Priority

1. Applicant's claim(s) of priority as a divisional application 09/106978 (US Patent 6213346) filed 6/29/98 is acknowledged.

Election/Restriction

2. Acknowledgement of the applicant's election without traverse in paper number 9 is made. The restriction requirement is made final.

IDS

3. Three references have been struck from the IDS after consideration and initialization for a lack of relevance because agricultural hitches for groundworking implements, boiler emission control, and mining equipment were too disparate to qualify as relevant to tissue dispensing.

Drawings

4. New drawings will be required contingent upon allowance because the drawings were declared informal by the applicant.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-8 are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has created ambiguous range delineations (re: cl 1) about 20-40 gsm. It is not apparent how close to 20 gsm or 40 gsm something must be to be "about" 20 gsm or 40 gsm. Similarly, it is not apparent how close to the range limit: (re: cl 4) the napkin basis weight needs be to be about 30 gsm; (re: cl 6) machine direction tensile needs be to be greater than about 2000 g; (re: cl 7) T/S ratio needs be to be greater than about .3; (re: cl 8) tab strength needs be to be greater than about 30 gf.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 1-2 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan'554 which discloses:

(re: cl 1) napkin assembly comprising (c2 L 35-59):
first napkin sheet having a plurality of napkins having basis weight of about 20-40 gsm (c4 L 53-55)
each napkin interconnected to the adjacent napkin by a plurality of tabs (22)

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second napkin sheet comprising a plurality of napkins each napkin comprising a plurality of sheets (c3 L 12-13)

first and second napkin sheets positioned proximate one another in nested formation (c2 L 35-59);

(Re: cl 2) each napkin comprises a first and second member integrally formed with (c2 L 35-59);

(re: cl 6) machine direction tensile is greater than about 2000 g (c4 L 61-c5 L 3)

(re: cl 7) T/S ratio is greater than about .3 (fig. 3).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan '554 which discloses the elements previously discussed and further discloses:

(re: cl 3) at least 300 napkins terminate proximate a fold between first and second members (c3 L 26-31);

at least one napkin from the first sheet terminates at the fold of the second sheet (c2 L 35-59); and Chan '554 further suggests:

(re: cl 5) napkins comprise pulp fibers (c1 L 6-9; c2 L 38-39).

It would have been obvious at the time of the invention to increase the stack size of Chan '554 from 300 to 500 napkins because 500 sheet refill clips are available and need be refilled less frequently thereby coming up with the instant invention. It would have been obvious at the time of the invention for Chan '554 to make the napkins of pulp fibers because pulp based fibers are the most prevalent materials used in making paper, provide an absorbent paper, and are low priced.

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11. Claims 1-2 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan '554 in view of Everhart with Chan '554 disclosing the elements previously discussed and Everhart disclosing:

(re: cl 5) napkins comprise pulp fibers (c4 L 47).

It would have been obvious for Chan '554 to use pulp fibers to make the napkins of pulp fibers because pulp based fibers are the most prevalent materials used in making paper, provide an absorbent paper, and are low priced as taught by Everhart and thereby come up with the present invention.

12. Claims 1-2, 4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan '554 in view of Lloyd et al. '382 with Chan '554 disclosing the elements previously discussed and Lloyd et al. '382 further disclosing:

(re: cl 4) the napkin basis weight is about 30 gsm (c1 L 45-46);
(re: cl 8) tab strength is greater than about 30 g-f. (p 3 L 24-26 for napkins at least 2.8 cm).

It would have been obvious for Chan '554 to use a napkin basis weight of about 30 gsm because thin napkins may be sold cheaper than heavier napkins as taught by Lloyd et al. '382 and thereby come up with the present invention. It would have been obvious for Chan '554 to use a tab strength of at least 30 g-f because so that napkins will not tear before removal from the container as taught by Lloyd et al. '382 and thereby come up with the present invention.

13. Claims 1-2, 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan '554 in view of Cook et al. with Chan '554 disclosing the elements previously discussed and Cook et al. further disclosing:

(re: cl 4) the napkin basis weight is about 30 gsm (c 9 L 1-3);
(re: cl 5) napkins comprise pulp fibers (c4 L 47).

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(re: cl 8) tab strength is greater than about 30 g-f. (c10 L 15-30).

It would have been obvious for Chan '554 to use a napkin basis weight of about 30 gsm because thin napkins may be sold cheaper than heavier napkins as taught by Cook et al. and thereby come up with the present invention.

It would have been obvious for Chan '554 to use pulp fibers to make the napkins of pulp fibers because pulp based fibers are the most prevalent materials used in making paper, provide an absorbent paper, and are low priced as taught by Cook et al. and thereby come up with the present invention. It would have been obvious for Chan '554 to use a tab strength of at least 30 g-f because so that napkins will not tear before removal from the container as taught by Cook et al. and thereby come up with the present invention.

14. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan'554 in view of Dwiggins et al. wherein Chan '554 discloses the elements previously discussed and further discloses:

(re: cl 3) at least 300 napkins terminate proximate a fold between first and second members (c3 L 26-31);
at least one napkin from the first sheet terminates at the fold of the second sheet (c2 L 35-59); and Chan '554.

Dwiggins et al. discloses the use of a stack size of 500 napkins (c24 table 10).

It would have been obvious at the time of the invention to increase the stack size of Chan '554 from 300 to 500 napkins because 500 sheet refill clips are available and need be refilled less frequently as taught by Dwiggins et al. thereby coming up with the instant invention.

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Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

Michael E. Butler

Michael E. Butler

Examiner


DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600